

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

LEONARD A. HASKINS,

Plaintiff,

v.

ROBERT AYERS, JR.,

Defendants.

No. C 08-02226 CW (PR)

ORDER DENYING MOTION FOR
APPOINTMENT OF COUNSEL AND
GRANTING PLAINTIFF AN EXTENSION
OF TIME TO FILE OPPOSITION TO
MOTION FOR SUMMARY JUDGMENT

Plaintiff requests the appointment of counsel to represent him
in this action.

There is no constitutional right to counsel in a civil case
unless an indigent litigant may lose his physical liberty if he
loses the litigation. See Lassiter v. Dep't of Social Services,
452 U.S. 18, 25 (1981); Rand v. Rowland, 113 F.3d 1520, 1525 (9th
Cir. 1997) (no constitutional right to counsel in
§ 1983 action), withdrawn in part on other grounds on reh'g en
banc, 154 F.3d 952 (9th Cir. 1998) (en banc). The court may ask
counsel to represent an indigent litigant under 28 U.S.C. § 1915
only in "exceptional circumstances," the determination of which
requires an evaluation of both (1) the likelihood of success on the

1 merits, and (2) the ability of the plaintiff to articulate his
2 claims pro se in light of the complexity of the legal issues
3 involved. See id. at 1525; Terrell v. Brewer, 935 F.2d 1015, 1017
4 (9th Cir. 1991); Wilborn v. Escalderon, 789 F.2d 1328, 1331 (9th
5 Cir. 1986). Both of these factors must be viewed together before
6 reaching a decision on a request for counsel under § 1915. See id.

7 The Court finds that exceptional circumstances entitling
8 Plaintiff to court appointed counsel do not exist. The likelihood
9 of Plaintiff's success on the merits cannot be ascertained at this
10 point in the proceedings, and the legal issues are not complex.
11 Accordingly, Plaintiff's request is DENIED.

12 Plaintiff's opposition to Defendants' motion to dismiss is
13 presently overdue. The Court GRANTS Plaintiff an extension of time
14 in which to file his opposition to Defendants' motion to dismiss.
15 The time in which Plaintiff may file his opposition to Defendants'
16 motion to dismiss will be extended up to and including thirty (30)
17 days from the date of this Order.

18 If Defendants wish to file a reply brief, they shall do so no
19 later than fifteen (15) days after the date Plaintiff's opposition
20 is filed.

21 IT IS SO ORDERED.

22 Dated: 10/6/2010



CLAUDIA WILKEN
UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF CALIFORNIA

LEONARD A HASKINS,

Plaintiff,

v.

ROBERT AYERS JR et al,

Defendant.

Case Number: CV08-02226 CW

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on October 6, 2010, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Leonard A. Haskins
800 Main St., Apt. #207
Redwood City, CA 94063

Dated: October 6, 2010

Richard W. Wieking, Clerk
By: Nikki Riley, Deputy Clerk

United States District Court
For the Northern District of California